

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVON R. HAYES,

Plaintiff,

v.

JEFFREY BEARD, *et. al.*,

Defendants.

No. 3:11-cv-168

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SMYSER)

**ORDER**

**NOW** this 6<sup>th</sup> day of August, 2012, upon review of the Report and Recommendation of Magistrate Judge J. Andrew Smyser (Doc. 71) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that the Report and Recommendation (Doc. 115) is **ADOPTED IN PART AND REJECTED IN PART**. Plaintiffs claims for retaliation (Part 5) and Eighth Amendment medical claim (Part 3) will be allowed to proceed against Defendant Pieczynski. The balance of the Report and Recommendation is **ADOPTED** to the extent it is not inconsistent with that determination. This matter is **RECOMMITTED** to Magistrate Judge Smyser for further proceedings .

/s/ A. Richard Caputo

A. Richard Caputo

United States District Judge